IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1604 OF 2004

Ashok Baloba Dombe ... Applicant

versus

State of Maharashtra & ors. ... Respondents

...

Mr. Aslam S.Shaikh, for the Applicant.

Mr. A.S. Gadkari, A.P.P., for the Respondents.

...

CORAM : A.M.KHANWILKAR,J.

11th October 2004

P.C.:

. Heard Counsel for the parties. Rule. Rule made returnable forthwith by consent. Mr. Gadkari waives notice for the Respondents. As short question is involved, petition taken up for final disposal forthwith by consent.

. Petitioner had applied for furlough leave for a period of 14 days which application came to be rejected by order dated 13th May 2004 on the reason that he reported late on the earlier

occasion and, his conduct was not satisfactory. In response to the present petition, reply has been filed on behalf of the Respondents. Amongst others, the Respondents have now relied on the police report dated 23rd December 2003, which is under the signature of Mr. Dattatraya Mandlik, Additional Superintendent of Police, Solapur (Rural) addressed to the jail authorities. In the said report, it is mentioned that the relatives of the Petitioner are involved in some offence registered as Cr.No. 5/2003. It is further stated that the relatives of the Petitioner are known for creating terror in the area on account of which witnesses are not coming forward to depose against them. To my mind, however, none of this can be a relevant consideration for rejecting the application in toto. On the other hand, relatives of the Petitioner involved in some Crime alone cannot be the basis to deny the relief to the Petitioner. Similarly, the reason of relative of the Petitioner creating terror in the area is of no consequence for considering the application of the Petitioner. Both these matters noted by the jail authorities can be taken care of if the Petitioner was to be released on furlough leave

for a period of 14 days to which he is otherwise entitled on condition that he will not enter the area of Pandharpur taluka. Counsel for the Petitioner submits that if such condition was to be imposed, the same will be acceptable to the Petitioner and the Petitioner will offer another surety of area other than Pandharpur taluka. If the Petitioner offers surety of area other than Pandharpur taluka, the Petitioner be released on furlough leave for a period of 14 days on condition that he shall not enter Pandharpur taluka during that period. Petition allowed on the above basis.

(A.M.KHANWILKAR,J.)